

Mayor Dave Anderson called the special council meeting of June 5, 2008 to order at 4:30 p.m. at the visitor center. Present for the meeting were Mayor Anderson, Council President John Langs, Council Members Dave Gray, Dave Sims, and Connie Wells, Clerk Kris Larson, Civil Engineer Mike Klaus, Police Chief Dave Kramer, Attorney Tim Wilson, City Administrator Stephen Boorman, Economic Development Coordinator Mike Sloan, and Attorney Jerry Mason.

The purpose of the special meeting was to consider contracting with Golden Enviro for sewer lagoon dredging and to discuss annexation.

Mike Klaus spoke to council regarding the sewer lagoon dredging contract. He said the contract amount with Golden Enviro would be about \$31,000 and the supplies \$17,000 bringing it to about \$48,000. It is a good value according to Mike. Mike asked that council authorize him to let the contractor stay over up to two days if he sees the need. Mayor Anderson does not have a problem with the extra flexibility. John Langs authorized up to \$52,500 for the dredging contract with Golden Enviro, LLC. Dave Gray seconded the motion. Dave Sims spoke about the contract being a fixed rate and asked if the city could pay an hourly rate. Mike said it would be a work change directive if the need arises. Dave Sims said Section II pricing information has an estimate of \$ 24,569. Mike said the first figure did not include crane time and Mike has requested that it be included, changing the price. John Langs amended his motion to include authorization for Mike to pay additional if needed for a daily rate. Dave Gray seconded, agreeing to the amendment. The motion passed – John Langs “yes”, Dave Sims “yes”, Connie Wells “yes”, Dave Gray “yes”.

Tim Wilson introduced Jerry Mason.

Jerry said a quick tour was taken at the south end of town. He said Idaho law has always been that if annexation is to occur it is up to the city for urban service delivery. He told a story about Boise extending its sewer lines out to 6,000 residents who had experienced problems with their septic systems. Jerry said there is history of people who cause problems for city’s anticipating annexation. He spoke about the annexation law rewrites in 2000. He did not recommend using category C annexation law. He said category A deals with property owners who want to be annexed. He said 2008 legislators changed the law to read those who consent rather than those who don’t object. In category A if there are not more than 100 residential units and the property is surrounded by city limits then you are deemed to give consent. Category B annexation has a variety of things that must be done in the process. In a category B not everyone consents to the annexation. An annexation plan must spell out land use plans, tax supported services, fee supported services such as electric, water, and sewer. Tax supported services are police, fire, streets, etc. A public hearing needs to be held before planning and zoning and then have a hearing before council. A majority of the land area must be in favor if there are more than 100 parcels. He said if water and sewer services are provided people are deemed to have given consent to annexation. Dave Sims asked since the city took over a water district if the consent

still counts because we serve them. Jerry said that has not been tested in the judicial system and it is a good point. Connie pointed out that there was an election to give permission to join the city by South Hill Water and Sewer District members. Jerry said after the two public hearings we must evaluate it. If it is under 100 parcels then you only need council's direction. If it is over 100 parcels then we need to have support at the start of category B. We must establish procedures that put forth the facts that annexation is necessary for ordinary development and pass an ordinance. The statute is written with a definite approach in mind so nibbling at it in small bites is best. If we take on too many areas at once then we run the risk of being attacked on all sides. He suggested taking bites and doing annexation in steps. He spoke of the Nampa case briefly. His advice would be to look at annexation but do it in bites and anticipate the additional services that will be burdened. He spoke of the risk of the city having customers outside of the city limits and that we deal with them by contract rather than by ordinance. He said it makes things more complicated and recommended to do annexation gradually and look for places that we have an interest in annexing especially where areas are hooked to city water or sewer services.

Dave Sims asked about the area of impact. He asked about the zoning and subdivision ordinances in place. The city only has the ability to comment on subdivisions according to Stephen. He said the county ordinances apply to property in the area of impact. Stephen said if we passed a policy that we would not serve any services outside city limits then this would help solve the problem. Dave Sims said if we could get property owners to agree to annexation to hook on to our system and get the county to use the city's subdivision rules this would help. Connie suggested annexing the area of South Hill Water and Sewer District and North Water and Sewer District that the city took in it would be acceptable. Stephen said there is farm ground near Poston's property and Rae's property that are problematic because these parcels cause a gap in the annexation of properties. The properties must be contiguous and not islands that we are annexing. Tim Wilson asked if we provide services then we have a contract and record that contract with the land then wouldn't the agreement attach to the land. Jerry said that is true but the politics are brutal. Tim asked about a case where services were provided to separate parcels with parcels in between that were not serviced by the city.

Tim Wilson and Dave Gray left the meeting.

Stephen said access is another issue. Jerry said the risk is that we get used to that way of life and abandon annexation. Connie said it is not fair to the taxpayers if people outside the city limits pay the same rates as the city residents. Jerry said if people did not follow through on an agreement the city's remedy would be to cut off services. Stephen said the problem is if a parcel is not adjacent. Dave Sims asked if a contract was done if it could go with the land. Jerry said it must go with the land. He said it is lawyer and staff intensive. He said he is an advocate of annexation. The observation of the city has been that the county is reactive rather than proactive according to Stephen. Stephen said the fire department is a good example of knowing the needs

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of property proposed to be annexed. Dave Sims asked about annexing agricultural land. Jerry said agricultural land is generally not annexed. When land is in agricultural use the way the annexation statute reads is when parcels have been divided or sold in parcels of five acres or less then it is subject to annexation. Jerry said the Nampa case complicates this issue. A title tract is almost necessary on these issues according to Jerry. Dave asked about farm ground being actively farmed. Jerry said it should be left alone unless the people agree to annexation or if it is disruptive to the process. Jerry said the only way to get railroad property is if you have property on both sides of the railroad. Jerry said if nobody knows or responds then it can happen. Jerry said the railroads pay operating property taxes rather than general property taxes. Jerry said you cannot shoe string annexation. Notice must be given to property owners and the annexation plan can change based on comments from the property owners. Jerry said the taxes and fees must be named in the annexation plan as to what the people pay now and what they would pay if they were annexed. Mike Sloan spoke regarding sales prices and values and zoning in the city as favorable over the county. Jerry spoke about land values in the Post Falls area.

Proposed zoning must be noted in the annexation plan and discussed in the planning and zoning hearing according to Jerry. Stephen asked who drafts the annexation plan. Jerry said it can be anyone who is willing and able. He said basically if we were to annex a property this is what the costs and benefits would be. Dave Kramer asked about grandfathered uses of property. Jerry said he does not like to restrict uses anymore than is necessary and gave the example of animals. Stephen said there is one property owner that has a motocross track that is currently in the county in the area we are reviewing for annexation. John Langs said the track will be a major issue. Jerry said the motocross track could be looked at from the noise and dust standpoint as to whether it is a nuisance. Dave Sims asked about shooting ranges. Dave Kramer said existing ranges cannot be limited but new ranges can be according to new law. Jerry said the question would be whether the property is truly a shooting range or is it just a place where people shoot. Jerry said a shooting range has a definition. He recommended that the law be reviewed. Dave Sims asked if this would be a grandfathered use. Jerry said grandfathering usually pertains to zoning ordinances and uses. Dave Kramer will print out the statute for council to review. Stephen said the city has a firearms ordinance that is very strict and it may need to be looked at. Stephen said that was the second biggest complaint at the previous annexation hearings next to the dollars that would be assessed.

Dave Gray and Tim Wilson joined the meeting again at 5:50 p.m.

Tim Wilson said his understanding is that anything that is legal in the county remains legal under annexation until the law changes. The group discussed public versus private nuisances. Tim asked about agricultural land being hands off. Jerry said agriculture can operate anywhere. Dave Sims said if over five acres is actively being farmed then we should leave the property alone. Jerry agreed. Jerry said shoestring annexation is unlawful in the State of Idaho.

Mayor and Council thanked Jerry for coming to Bonners Ferry for the meeting.

Tim Wilson left the meeting at 6:03 p.m.

Dave Sims said he would like to meet with the county and discuss our subdivision ordinance. Stephen said there is value to sit down face to face with the county officials. Dave Sims thinks there is value to making sure we are on the same page. Stephen said there is value to understanding each other's perspectives. Jerry said a contract and resolution will set policy because ordinances are not effective outside the city limits. Stephen said we need a policy to set out the rules of those outside the city using or hooking on to city services. Mayor Anderson said there is talk of a joint meeting with the county to discuss pertinent issues between the city and county.

Dave Gray moved to adjourn at 6:09 p.m. The meeting adjourned.

David K. Anderson, Mayor

Attest:

Kris Larson, City Clerk